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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,452	10/31/2003	Frances Jiang	20-3-2-19	2851

46290 7590 07/13/2007
WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

EXAMINER

EWART, JAMES D

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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07/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/699,452

Applicant(s)

JIANG ET AL.

Examiner

James D. Ewart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on June 29, 2007 RCE.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 29 June 2007 has been entered.

Response to Arguments

2. Applicant's arguments filed 29 June 2007 have been fully considered but they are deemed to be moot in view of new grounds of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,5-7,10,11 & 14-18 are rejected under 35 U.S.C. 103(a) as being anticipated by Bondarenko et al. (U.S. Patent Publication No. 2002/0105957).

Referring to claims 1 and 10, Bondarenko et al. teaches a method of communication (0003 and 0016) comprising: accessing, in response to a request for a service (0016, requesting communication with an agent), information indicative of a potential delay in accessing the requested service (0017, Estimated Wait Time (EWT)), transmitting at least one message comprising delay information indicative of an estimated delay length associated with accessing the service (0063 and Figure 3, 73), the estimated delay length being determined based on the information indicative of the potential delay (0051, number of calls in queue – the greater the number the greater the delay) and previously collected information indicative of at least one delay in accessing the requested service (0051, average time per call- an estimate for any call in the queue).

Referring to claims 2 and 11, Bondarenko et al. further teaches wherein the estimated delay length comprises at least one time interval between a first instant corresponding with a received service request and a second instant corresponding with granting service access (0017, EWT).

Referring to claims 5 and 14, Bondarenko et al. further teaches wherein accessing said information indicative of the potential delay in accessing the requested service comprises accessing information indicative of at least one of traffic congestion, channel condition, system loading, processor occupancy, queuing delay (Figure 2, queue wait time), and scheduler delay.

Referring to claim 6, Bondarenko et al. further teaches, comprising: determining, based on the previously collected information indicative of said at least one delay in accessing the requested service (0055), at least one pattern associated with the potential delay in accessing the requested service (0055 – disposal time per call) through an open loop network (0029, PSTN does not use power control feedback and is thus an open loop network) that comprises at least one of a wireline network and a wireless network (0029), and determining the estimated delay length based on the information indicative of the potential delay and said at least one pattern (Figure 2, $\#$ of calls in queue / *potential* delay and *average* time per call / *pattern*).

Referring to claim 7, Bondarenko et al. further teaches, wherein determining said at least one pattern comprises determining said at least one pattern based on at least one of traffic congestion, channel condition, system loading, processor occupancy, queuing delay (Figure 2, queue wait time), and scheduler delay associated with at least one previous request for the service.

Referring to claim 15, Bondarenko et al. further teaches wherein receiving said at least one message comprises receiving at least one message indicative of an estimated delay length associated with accessing the service (0017) through an open loop network (0029, PSTN does not use power control feedback and is thus an open loop network) comprising at least one of a wireline network and a wireless network (0029).

Referring to claim 16, Bondarenko et al. further teaches comprising: generating said information indicative of the potential delay associated with service access (0055, # of calls in queue).

Referring to claim 17, Bondarenko et al. further teaches, wherein generating said information indicative of the potential delay comprises generating information indicative of at least one of traffic, channel condition and service demand (0055, Demand - # of calls in queue).

Referring to claim 18, Bondarenko et al. further teaches comprising providing said information indicative of the potential delay (0055, a high estimated wait time would be indicative of a greater # in queue than a low estimated wait time).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 4, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable by Bondarenko et al. in view of Buford et al. (U.S. Patent No. 5,945,948).

Referring to claims 3 and 12, Bondarenko et al. teaches the limitations of claims 3 and 12, but do not teach wherein the service request is autonomous and generated at a predefined

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moment in time. Buford et al. teaches wherein the service request is autonomous and generated at a predefined moment in time (Column 17, Lines 63-65). Therefore at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the teaching of Bondarenko et al. with the teaching of Buford et al. wherein the service request is autonomous and generated at a predefined moment in time to automatically send new access requests when requests are not received (Column 17, Lines 63-65).

Referring to claims 4 and 13, Buford et al. further teaches wherein the predefined moment in time comprises at least one of a periodic (Column 17, Lines 63-65) and an a periodic instant. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to combine the teaching of Bondarenko et al. with the teaching of Buford et al. wherein the mode is transmit diversity and a controller that stops one or both of the first receive processing and the second receive processing depending on the timing detected in the detector to access transmission performance and use it to select a transmission mode (Column 1, Lines 6-9)

5. Claims 3,4,12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable by Bondarenko et al. in view of Shtivelman (U.S. Patent No. 6,157,655).

Referring to claim 8, Bondarenko et al. teaches the limitations of claim 8, but does not teach wherein determining said at least one pattern comprises determining said at least one pattern based on a heuristic technique. Shtivelman teaches wherein determining said at least one pattern comprises determining said at least one pattern based on a heuristic technique (Column 4,

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Lines 9-14 and Lines 34-48). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to combine the teaching of Bondarenko et al. with the teaching of Shtivelman wherein determining said at least one pattern comprises determining said at least one pattern based on a heuristic technique to provide users with better approximated wait times (Column 5, Lines 31-32).

Referring to claim 9, Bondarenko et al. teaches the limitations of claim 9, but does not teach determining at least one pattern indicating a time variation of the potential delay in accessing the requested service. Shtivelman teaches determining at least one pattern indicating a time variation of the potential delay in accessing the requested service (Column 4, Lines 9-14 and Lines 34-48). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to combine the teaching of Bondarenko et al. with the teaching of Shtivelman of determining at least one pattern indicating a time variation of the potential delay in accessing the requested service to provide users with better approximated wait times (Column 5, Lines 31-32).

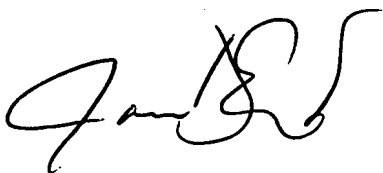
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James D. Ewart whose telephone number is (571) 272-7864. The examiner can normally be reached on M-F 7am - 4pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571)

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272-7872. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and (571) 273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

A handwritten signature in black ink, appearing to read 'James Ewart', with a stylized flourish at the end.

James Ewart
July 5, 2007

A handwritten signature in black ink, appearing to read 'William Trost', with a long diagonal stroke extending upwards and to the right.

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600